

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA,	*	
	*	
Plaintiff,	*	
	*	
v.	*	CASE NO. 2:06-CV-00116-MEF
	*	
FIVE HUNDRED FORTY-THREE	*	
THOUSAND ONE HUNDRED NINETY	*	
DOLLARS (\$543,190.00 in United States	*	
Currency	*	
Defendant.	*	
and	*	
	*	
ENRIQUE ALCARAZ-BARAJAS,	*	
	*	
Claimant.	*	

**CLAIMANT'S SECOND**  
**MOTION FOR SUMMARY JUDGMENT**

Comes now the Claimant Enrique Alcaraz-Barajas, by and through counsel, and pursuant to Rule 56.1, Fed.R.Civ.P., moves the Court to enter summary judgment in favor of the Claimant upon the grounds that there is no genuine issue as to any material fact, and Claimant is entitled to judgment as a matter of law, saying as follows:

1. The government bears the burden of proof and cannot offer **admissible** facts to support the allegations of the Complaint and subsequent pleadings. There are, therefore, no facts in support of the government's claim for relief.

2. The Claimant relies on the pleadings, the Motion to Dismiss, the Motion to Suppress and the Motions to Strike heretofore filed, and the briefs previously filed in support thereof, as well as briefs and information to be filed subsequently as to those motions currently pending.

3. Claimant contends that his Motion to Suppress is due to be granted based upon illegal stop of the vehicle in which he was a passenger. Claimant has standing to object to said stop. **Brendlin v. California**, (USSC, 06-8120 Decided June 18, 2007). The Motion to Suppress is also

due to be granted as to the discovery of the money and as to his statements regarding same, due to illegal detention of Claimant and illegal search of his luggage after completing an illegal traffic stop. Subsequent evidence is due to be suppressed as fruit of the poisonous tree. **Wong Sun v. United States, 371 U.S. 471 (1963).**

4. Without the evidence due to be suppressed, the government cannot prevail as to either fact or law.

5. Claimant has filed concurrently this date his Motion for Expansion of Time to file supporting documents based upon the deposition of Trooper Andy Sutley on October 3, 2007, which bears significantly on the issues in the various pending motion, including standing, suppression, and summary judgment for either party.

s/Bruce Maddox  
Bruce Maddox (MAD013)  
Attorney for Enrique Alcaraz-Barajas  
6728 Taylor Court  
Montgomery, Alabama 36117  
Phone: (334) 244-7333  
Fax: (334) 260-9600  
retrocam@aol.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of October, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to appropriate parties.

s/Bruce Maddox  
Of Counsel